

Newark

Sharpe James
Mayor

Pam

Department of Law

920 Broad Street
Newark, New Jersey 07102
(201) 733-3880
Fax (201) 733-5394

Michelle Hollar-Gregory
Corporation Counsel

MEMORANDUM

DATE: MARCH 18, 1997

TO: SYNTHIA JAMES, MANAGER
OFFICE OF BOARDS

FROM: MICHELLE HOLLAR-GREGORY
CORPORATION COUNSEL

RE: **RIVERBANK PARK HISTORIC DESIGNATION PROCESS**

Pursuant to your request for a legal opinion, please be advised as follows. In response to your memo regarding the required signature of the owner on the application, yes it is required.

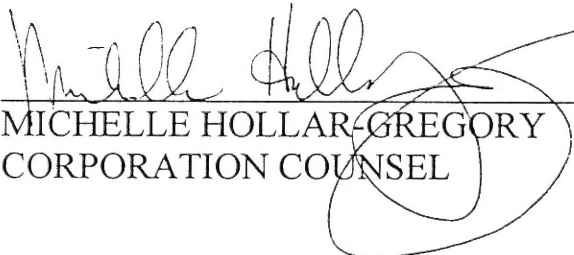
Additionally, the Commission is subject to the "Scope of Powers" section of the ordinance 6S&FC 080394 which specifically states that: (b) "...the commission shall have the responsibility to:

(6) carry out such other advisory, educational and informational functions (a)s will promote historic preservation in the City of Newark subject to the prior approval of the Office of the Mayor.

All of the City of Newark Ordinances which have been enacted pursuant to law which appropriately regulate historic sites and districts must be read in concert to clearly understand the respective roles that the commission and the various municipal agencies have as it relates to historic preservation.

Also, please be advised that this office is presently in the process of reviewing these existing ordinances to prepare the appropriate amendments to reflect any and all newly adopted legislation.

If you have any further questions or concerns, please advise.



MICHELLE HOLLAR-GREGORY
CORPORATION COUNSEL

MHG:sk

c: Glenn A. Grant, Business Administrator
Rosemary Hocking, Director of Development

Office of Boards

Central Planning Board
920 Broad Street
Newark, New Jersey 07102
201 733-6254

Synthia L. James
Manager

Ade Afolabi
Supervising Planning,
Land Development Review

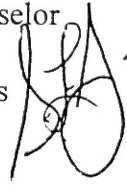
MEMORANDUM

TO: Michelle Holler-Gregory, Corporation Counsel

FROM: Cynthia L. James, Manager, Office of Boards

DATE: March 11, 1997

RE: RIVERBANK PARK HISTORIC DESIGNATION PROCESS-OWNER'S
SIGNATURE



Please be advised that another issue has been raised with regard to the above referenced process.

The Newark Landmark and Historic Preservation Commission, (Commission) has submitted a completed Application for Designation form. It is signed by an applicant who is not the owner of the property.

The question raised pertains to the practice of someone other than the owner signing an application for designation which could have such a tremendous impact on the way the property could be used in the future.

In such a case as this, shouldn't the owner's signature be on the Application for Designation form as the applicant?

It would be appreciated if a response to this memorandum could be included with the response to the attached 3/6/97 request for legal opinion that was previously forwarded to your attention.

c: Glenn Grant, Business Administrator
Rosemary A. Hocking, Director, Department of Development
Ads Afolabi, Supervising Planner, LD.

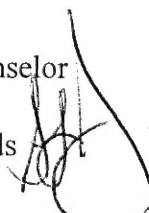
Office of Boards

920 Broad Street
Newark, New Jersey 07102
201 733-3675
201 733-4369 FAX

Synthia L. James
Manager

MEMORANDUM

TO: Michelle Hollar-Gregory, Corporation Counselor

FROM: Cynthia L. James, Manager, Office of Boards 

DATE: March 6, 1997

RE: RELATIONSHIP OF "SCOPE OF POWERS" TO RIVERBANK PARK HISTORIC DESIGNATION PROCESS

Attached please find correspondence documenting a meeting with Elizabeth DeTufo, Chairperson of the Newark Landmark and Historic Preservation Commission, (Commission) with regard to certain requirements of the Central Planning Board.

Please note that the Commission does not believe they are subject to item b6 of the Scope of Powers section of ordinance 6S& FC 2:2-144.

A previous request for legal opinion was sent to the Law Department on this matter, but to date we have not received a response.

This memorandum is to respectfully request that a written opinion be expedited so that the Commission and the Central Planning Board are clear about this matter.

c: Ade Afolabi, Supervising Planner, LDR

Ordinance

of the

City of Newark, N.J.

No. 6FH JUL 06 1994

No. Public Hearing

No. 65+FC AUG 03 1994

No. and Final Passage

No. Reconsidered

Approved as to Form and Legality on Basis of Facts Set Forth

Corporation Counsel

Council member George Branch presents the following Ordinance:Date to Mayor 8-8-94Date Returned 8-9-94Date Resubmitted
to CouncilDate Advertised
1st Reading

Final Reading

Factual contents certified to by

Title Assistant Corp. Counsel

AN ORDINANCE TO AMEND AND SUPPLEMENT TITLE 2, ADMINISTRATION, CHAPTER 2, OFFICE OF THE MAYOR AND AGENCIES, ARTICLE 28, NEWARK LANDMARKS AND HISTORIC PRESERVATION COMMISSION, SECTION 138, ET SEQ., OF THE REVISED ORDINANCES OF NEWARK, NEW JERSEY (1966) AS AMENDED AND SUPPLEMENTED (BY CONFORMING R.O. 2:2-138 ET SEQ. TO CORRESPOND WITH THE PROVISIONS OF N.J.S.A. 40:55D-107 et seq.)

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., provides municipalities with the authority to establish historic preservation commissions and to enact ordinances which designate and regulate historic sites and districts pursuant to the City's zoning ordinances; and

WHEREAS, pursuant to said authority, the City of Newark has established the Newark Landmarks and Historic Preservation Commission (the "Commission"); and

WHEREAS, it is necessary to amend and supplement certain provisions of R.O. 2:2-138 et seq. to correspond to the provisions of N.J.S.A. 40:55D-107 et seq.;

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

SECTION 1. Title 2, Chapter 2, Article 28, Landmarks and Historic District Commission, Section 138, et seq. of the Revised Ordinances of the City of Newark, New Jersey, 1966, as amended and supplemented, be and is hereby amended and supplemented to read in its entirety as follows:

NEWARK LANDMARKS AND HISTORIC PRESERVATION COMMISSION

2:2-138 - DECLARATION OF PURPOSE AND PUBLIC POLICY

Many improvements and landscape features having a special character, historical or aesthetic interest or value, and representing the finest architectural products of distinct periods in the history of the City, have been uprooted without adequate consideration of the irreplaceable loss to the people of the City of the aesthetic, cultural and historic values represented by such improvements and landscape features, notwithstanding the feasibility of preserving and continuing the use of such improvements and landscape features. In addition, distinct areas may be similarly uprooted or may have their distinctiveness destroyed, although the preservation thereof may be both feasible and desirable.

No. 65 + FC

Page - 2 -

Date AUG 03 1994

1 It is hereby declared as a matter of public policy
2 that the protection, enhancement, perpetuation and use of
3 improvements and landscape features of special character or
4 special historical or aesthetic interest or value is a public
5 necessity and is required in the interest of the health,
6 prosperity, safety and welfare of the people. The purpose of
7 this ordinance is to:
8

9
10 (a) effect and accomplish the protection,
11 enhancement and perpetuation of such improvements, landscape
12 features and districts which represent or reflect elements of
13 this City's cultural, social, economic, political and
14 architectural history;

15
16 (b) safeguard the City's historic, aesthetic and
17 cultural heritage, as embodied and reflected in such
18 improvements, landscape features and districts;

19
20 (c) stabilize and improve neighborhood areas;

21
22 (d) foster civic pride in the beauty and noble
23 accomplishments of the past;

24
25 (e) protect and enhance the City's attractions to
26 tourists and visitors and the support and stimulus to business
27 and industry thereby provided;

28
29 (f) strengthen the economy of the City; and

30
31 (g) promote the use of landmarks, landmark sites
32 and historic districts for the education, pleasure and welfare
33 of the people of the City.
34

35 2:2-139 - DEFINITIONS

36
37 Whenever the following terms, words or phrases are
38 used in this article, they shall have the meaning and scope
39 herein given:
40

41 "Administrative Officer" means the Historic
42 Preservation Officer appointed as per the provisions of this
43 Ordinance. In the event that the Historic Preservation officer
44 is not appointed, the Construction Code Official of the City of
45 Newark shall serve as the Administrative Officer of this
46 Ordinance.
47

48 "Alteration" means any act or process that in any way
49 effects a change in the design or outer appearance of a
50 district, building, structure, object or site, or any part
51 thereof.
52

53 "Application" means an application form and all
54 accompanying documents submitted for approval of alteration,
55 repair, reconstruction, demolition or relocation of a historic
56 district, building, structure, object or site or any part
57 thereof that requires a permit or review of a development
58 application.
59

60 "Archaeological" means the science or study of the
61 material remains of past life or activities and the physical
62 site, location, or context in which they are found, as
63 delineated in the Department of Interior's Archaeological
64 Resources Protection Act of 1979.
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No. 654FC

Page - 3 -

Date AUG 03 1994

"Architectural" means relating or conforming to the rules of Architecture; having or conceived of as having a single unified overall design, form, or structure.

"Architectural Feature" means the architectural style, design, general arrangement and components of all the surfaces, including but not limited to the kind, texture and color of the building material, and the type and style of all windows, doors, lights, signs and other features appurtenant to such improvement.

"Building" means any structure, part of a structure, extension thereof, or addition thereto having a roof supported by columns, posts, piers, or walls and intended for the shelter, business, housing or enclosing of persons, animals, or property.

"Commission" means the Newark Landmarks and Historic Preservation Commission.

"Construction" means the act of (a) adding an addition to an existing building or structure; (b) the erection of a new principal or accessory building or structure on a lot or property; or (c) alterations.

"Days" means calendar days.

"Demolition" means the dismantling or razing of all or part of any historic site or landscape feature or of any improvement in a historic district.

"Development" means any division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mixing, excavation of landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

"Historic District" means one or more historic sites and certain intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

"Historic Site" means any real property, building, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archaeological, cultural, scenic or architectural significance.

"Improvement" means any building, structure, work of art or other object installed upon real property or any part of such improvement.

"Object" means anything constructed, fabricated or created, the use of which does not require permanent or semi-permanent location on or in the ground.

"Ordinary maintenance" means the repair or renewal of deterioration, wear or damage to a structure of improvement in order to return same, as nearly as practicable, or its condition prior to the occurrence of such deterioration, wear or damage with materials and workmanship of the same quality and appearance and that does not in any effect a change in the design or outer appearance of the structure or improvement.

"Reconstruction" means the act or process of reproducing by new construction the exact form and details of a vanished building, structure, or object or part thereof, as it appeared at a specific period of time.

"Rehabilitation" means the act of process of returning an improvement to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the improvements which are significant to historical, architectural and cultural values.

"Relocation" means any removal or relocation of a structure or improvement on its site or to another site.

"Restoration" means the act or process of accurately recovering the form and details of an improvement by the removal of later work and/or by the reconstruction of missing earlier work.

"Structure" means a combination of materials to form a construction for occupancy, use or ornamentation whether called on, above, or below the surface of a parcel of land. Structure includes, but is not limited to, buildings, signs, fences, tanks, towers, poles, walkways, driveways, streets and roads.

2:2-140 - COMMISSION ESTABLISHED

There is hereby established in the Office of the Mayor a Commission, which shall be known as the "Newark Landmarks and Historic Preservation Commission."

2:2-140.1 - MEMBERSHIP

The Commission in accordance with the provisions of N.J.S.A. 40:55D-107, shall consist of nine (9) unsalaried members and two (2) alternate members, all of whom have demonstrated interest, competence and/or knowledge in historic preservation. The members shall be selected as follows:

(a) Two (2) Class A members consisting of persons knowledgeable in building design and construction or architectural history and who may reside outside the City;

(b) Two (2) Class B members consisting of persons knowledgeable or with a demonstrated interest in, local history and who may reside outside the City;

(c) Five (5) Class C members consisting of citizens of the City who shall hold no other municipal office, position or employment except for membership on the planning board or board of adjustment and;

(d) Two (2) alternate members who shall meet the qualifications of Class C members.

2:2-140.2 - TERMS AND VACANCIES

(a) The Mayor shall appoint all members of the Commission and shall designate at the time of the appointment the regular members by class and the alternate members as "Alternate No. 1" and Alternate No. 2." The terms of the members first appointed shall be so determined that to the greatest extent practicable, the expiration of the terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment, and in the case of alternate members, evenly over the first two years after their appointment; provided that the initial terms of no regular member shall exceed four years and that the initial term of no alternate member shall exceed two years. Thereafter, the term of a regular member shall be four years; and the term of an alternate member shall be two years.

(b) If a vacancy shall occur otherwise than by the expiration of the term, it shall be filled by appointment, as above provided, for the unexpired term.

(c) If requested, any member of the commission may, after public hearing, be removed by the Municipal Council for cause.

2:2-141 - RULES AND ORGANIZATION

(a) The Commission shall annually elect a chairperson and vice-chairperson from its members. The City's Planning Officer shall serve as secretary to the Commission.

(b) The Commission shall create rules and procedures for the transaction of its business subject to the following:

(1) A quorum for the transaction of business shall consist of five of the Commission's members, including the chairperson, or, in his or her absence, the vice-chairperson.

(2) The Commission shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolution, findings, determinations and decisions.

(3) All such minutes and records shall be public records, a true copy of which shall be filed with the Municipal Clerk in a timely manner.

(c) No member of the Commission shall be permitted to act on any matter in which he or she has either directly or indirectly any personal interest or financial interest.

2:2-142 ADMINISTRATIVE OFFICER

(a) The Mayor shall appoint a Historic Preservation Officer who shall serve as the administrative officer of this ordinance.

(b) The Historic Preservation Officer's minimum professional qualifications shall be: a graduate degree in Historic Preservation, Planning, History, Architectural History or Archeology, or a Bachelor's Degree and one year of professional experience; a professional degree in Architecture or Historic Architecture with a State License to practice Architecture, or a Bachelor's Degree and one year professional experience; an Associates Degree in any of the above professional degrees with four years of professional experience.

(c) The Historic Preservation Officer may be asked to advise the Commission on each application.

(d) The Historic Preservation Officer shall also have responsibility for coordinating the City's preservation activities with those of State and Federal agencies and with local, state and national preservation organizations in the private sector.

(e) In the event that a Historic Preservation Officer is not appointed, the Construction Code Official of the City of Newark shall serve as the administrative officer of this ordinance.

2:2-143 EXPENSES AND FEES

(a) The Municipal Council shall make provisions in the city budget and appropriate funds for the expenses of the Commission.

(b) The Commission may employ or contract for the services of experts and other staff and services as it may deem necessary. The Commission shall not, however, (exclusive of gifts or grants) exceed the amounts appropriated by the Municipal Council for its use.

(c) The Commission shall obtain its legal counsel from the municipal attorney at the rate of compensation determined by the City Council, unless the City Council, by appropriation, provides for separate legal counsel for the commission.

2:2-144 SCOPE OF POWERS

(a) Nothing contained in this section shall be construed as authorizing the Commission in acting with respect to any site, historic district, or improvement therein, or in adopting regulations in relation thereto:

(1) to regulate or limit the height and bulk of buildings except in designated historic districts.

(2) to regulate or supervise ordinary maintenance and repair which in no way affects the design, material, or appearance of a landmark or

(b) Except as provided in subsection 2:2-144(a); the Commission shall have the responsibility to:

(1) prepare a survey of historic sites of the municipality pursuant to criteria identified in the survey report;

No. 650FCPage -7-Date AUG 03 1994

(2) make recommendations to the planning board on the historic preservation plan element of the master plan and on the implications for preservation of historic sites of any other master plan elements;

(3) advise the Administration through the Planning Board on the inclusion of historic sites in the recommended capital improvement program;

(4) advise the Planning Board and board of Adjustment on applications for development pursuant to N.J.S.A. 40:55D-110.

(5) provide the Zoning Officer with written reports pursuant to N.J.S.A. 40:55D-111 on the application of the zoning ordinance provisions concerning historic preservation;

(6) carry out such other advisory, educational and informational functions as will promote historic preservation in the City of Newark subject to the prior approval of the Office of the Mayor;

(7) advise all appropriate City departments and agencies in the manner specified in Title 27:9-1, et seq., of these Ordinances on all permit applications which propose to construct, reconstruct, alter, restore, preserve or demolish any architectural features of a historic site or any exterior architectural feature of a historic district which appears on the official landmark and district designation list and map or which is under consideration for designation as a historic site, or historic district; and

(8) advise all appropriate City departments and agencies on the availability of grant monies and programs from both public and private sources which may assist in the promotion of historic preservation in the municipality.

Section 2. Any ordinance or part thereof inconsistent herewith be and is hereby repealed. Nothing contained herein shall be construed to conflict with the provisions set forth in N.J.S.A. 40:55D-107 et seq.

Section 3. This Ordinance shall take effect upon final passage and publication as provided by law.

STATEMENT OF PURPOSE

This Ordinance amends and supplements Title 2:2-28 of the Revised Ordinance of Newark; New Jersey (1966) as amended and supplemented to correspond to the requirements of N.J.S.A. 40:55D-107, et. seq.

CERTIFIED TO BY ME THIS
10TH DAY OF AUGUST, 1994

DO NOT USE SPACE BELOW THIS LINE

DO NOT USE SPACE BELOW THIS LINE

10TH DAY OF AUGUST, 1994

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

Council member	Ave	Nay	NV	AB	Council member	Ave	Nay	NV	AB
BRANCH	✓				QUINTANA	✓			
CARRINO	✓				RICE	✓			
CRUMP	✓				TUCKER	✓			
HARRIS	✓				BRADLEY,	✓			
MARTINEZ	✓				President				

✓ — Indicates Vote

AB — Absent

RECORD OF COUNCIL VOTE FOR RECONSIDERATION

Council member	Ave	Nay	NV	AB	Council member	Ave	Nay	NV	AB
BRANCH					QUINTANA				
CARRINO					RICE				
CRUMP					TUCKER				
HARRIS					BRADLEY,				
MARTINEZ					President				

NV — Not Voting

Adopted on first reading at a meeting of the Council of the City of San Jose, N.J.

300 06 1994

adopted on first reading at a meeting of the Council of the City of Newark, N.J. on

adopted on second and final reading after hearing on

approved

rejected By

Ronald Bradley
Council President

Robert D. Narvaez
City Clerk

This Ordinance when adopted must remain in the custody of the City Clerk. Certified copies are available.

JUL 06 1994

AUG 03 1994

LC70694
6 FD CR 39

No. 1
No. 1
Public Hearing
No. 1
AUG 03 1994

for 8-8-94
ned 8-9-94
ted
to Council
Date Advised
1st Reading
Final Reading

No. 1
Reconsidered
Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by
Title Assistant Corp. Counsel

Council member George Bragdon presents the following Ordinance:

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF
NEWARK, NEW JERSEY THAT:

Section 1. Title 16A, Land Use Procedures, Chapter 3,
Provisions applicable to both the Central Planning and the Board
of Adjustment, Section 3, Application: Procedures for Filing, of
the Revised Ordinances of the City of Newark, New Jersey, 1966,
as amended and supplemented is hereby further amended to read as
follows:

16A:3-3 Applications: Procedure for Filing

a. The applicant shall obtain all necessary forms
from the zoning officer who shall inform the applicant of the
procedures to be followed in filing an application for
development and advise the applicant which board has
jurisdiction over the application. The applicant shall provide
such information as the zoning officer deems necessary in order
to render a determination as to the type of application
required. At the time of filing the application but in no event
less than 10 days prior to the date set for hearing, the
applicant shall also file all sketch plats, plot plans, maps or
other papers required by virtue of any provision of this
ordinance or any rule of the Central Planning Board or the Board
of Adjustment.

b. An application for development shall be complete
form purposes of commencing the applicable time period for
action by the Central Planning Board or Board of Adjustment when
so certified by the Board or its authorized committee or
designed. In the event that the agency, committee or designed
does not certify the application to be complete within 45 days
of the date of its submission, the application shall be deemed
complete upon the expiration of the 45 day period for purposes
of commencing the applicable time period unless (a) the
application lacks information indicated on a checklist adopted
by ordinance and provided to the applicant and (b) the Board or
its authorized committee or designed has notified the applicant,
in writing, of the deficiencies in the application within 45
days of submission of the application.

c. The applicant may request that one or more of the
submission requirements be waived, in which event the agency or
its authorized committee shall grant or deny the request within
45 days. Nothing herein shall be construed as diminishing the
applicant's obligation to prove in the application process that
he/she is entitled to approval of the application. The Board
may subsequently require correction of any information found to
be in error and submission of additional information not

specified in the ordinance or . . . accompanying documents, as are reasonably necessary to make . . . informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Board.

Provided however, no application shall be accepted or considered by either Board where the following exists:

1. The building or premises is presently in violation of the City of Newark Land Use, Building Code and Zoning regulations, or any other pertinent use regulations of the City.

2. outstanding municipal charges, including but limited to taxes, water and sewer or assessments for local improvements; or

3. the property is subject to the jurisdiction of the bankruptcy courts,

d. All applicant's for permits pertaining to designated historic sites or improvements in designated historic districts shall be referred to the Newark Landmarks and Historic Preservation Commission (the Commission) for a written report and decision on the application of the provisions of the Newark Landmarks and Historic Preservation Ordinance. (Title 27:9-1, et seq.) thereto; Except that it is not necessary to refer applications to the Commission that wholly concern:

(a). changes to the interior or structures; or

(b). changes not visible to the public from a public street.

Section 2. Any existing ordinance, or part thereof inconsistent with this ordinance is hereby repealed.

Section 3. This ordinance shall take effect upon final passage and publication according to law.

STATEMENT OF PURPOSE

This ordinance requires both the Board of Adjustment and Central Planning Board to refer applications pertaining to designated historic sites or improvements within designated historic districts to the Newark Landmarks Preservation Commission.

CERTIFIED TO BY ME THIS
10TH DAY OF AUGUST, 1994

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE					RECORD OF COUNCIL VOTE FOR RECONSIDERATION				
Council member	Aye	Nay	NV	AB	Council member	Aye	Nay	NV	AB
BRANCH	✓				QUINTANA	✓			
CARRINO	✓				RICE	✓			
CRUMP	✓				TUCKER	✓			
HARRIS	✓				BRADLEY,	✓			
MARTINEZ	✓				President				
✓ — Indicates Vote					AB — Absent				
					NV — Not Voting				

Adopted on first reading at a meeting of the Council of the City of Newark, N.J. on

Adopted on second and final reading after hearing on

Approved
Rejected By

Ronald Bradley
Council President

Council President

Mayor

City Clerk

City Clerk

This Ordinance when adopted must remain in the custody of the City Clerk. Certified copies are available

Ordinance

of the

City of Newark, N.J.

6FT JUL 06 1994
No. 1st Reading

No. Public Hearing

654FE AUG 03 1994
No. 2nd Rdg. and Final Passage

No. Reconsidered

Approved as to Form and Legality on Basis of Facts Set Forth

Corporation Counsel

Council member

presents the following Ordinance:

Date to Mayor

Date Returned

Date Resubmitted
to CouncilDate Advertised
1st Reading

Final Reading

Factual contents certified to by

Title Assistant Corp. Counsel

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AN ORDINANCE TO AMEND TITLE 27,
ZONING OF THE REVISED ORDINANCES
OF THE CITY OF NEWARK, NEW
JERSEY, 1966, AS AMENDED AND
SUPPLEMENTED (BY ADDING THERETO A
NEW CHAPTER CREATING AND
ESTABLISHING HISTORIC SITES AND
DISTRICTS AND RULES AND
REGULATION; THEREFORE)

WHEREAS, the Municipal Land Use Law N.J.S.A. 40:55D-1
et. seq. provides municipalities with the authority to
establish historic preservation commissions and to enact
ordinances which designate and regulate historic sites and
districts pursuant to the City's zoning ordinances; and

WHEREAS, pursuant to said authority, the City of
Newark has established the Newark Landmarks and Historic
Preservation Commission (the "Commission"); and

WHEREAS, the City of Newark desires to establish rules
and regulations for the Commission to make recommendations to
the Mayor and the Municipal Council for the designation of
historic sites, buildings and districts and to provide a
framework wherein the City of Newark may adopt such
recommendations; and

WHEREAS, this ordinance is being adopted for the
purpose of protecting the historic resources in the City of
Newark by providing for the preservation, rehabilitation or
restoration of sites, buildings and districts which constitute
or reflect historical resources of the City thereby promoting
the public welfare and preserving the cultural heritage of the
City.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL
COUNCIL OF THE CITY OF NEWARK, NEW JERSEY THAT:

Section 1. Title 27, Zoning, of the Revised
Ordinances of the City of Newark, New Jersey, 1966, as amended
and supplemented, be and is hereby amended and supplemented by
adding thereto a new chapter nine to read in its entirety as
follows:

27:9-1 TITLE

This Chapter shall be known as and may be cited
as the NEWARK LANDMARKS AND HISTORIC PRESERVATION ORDINANCE.

No. 654FEPage -2-Date AUG 03 1994

27:9-2 DEFINITIONS

The following as used in this article shall have the meaning and scope herein given:

"Administrative Officer" means the Historic Preservation Officer appointed as per the provisions of this ordinance. In the event that the Historic Preservation Officer is not appointed, the Construction Code Official of the City of Newark shall serve as the Administrative Officer of this ordinance.

"Alteration" means any act or process that in any way effects a change in the design or outer appearance of a building, structure, object or site, or any part thereof.

"Application" means an application form and all accompanying documents submitted for approval of a permit for alteration, repair, reconstruction, demolition or relocation of a designated historic site, building, structure or object, or improvement within a designated historic district or review of a development application concerning same.

"Archaeological" means the science or study of the material remains of past life or activities and the physical site, location, or context in which they are found, as delineated in the Department of Interior's Archaeological Resources Protection Act of 1979.

"Architectural" means relating or conforming to the rules of Architecture; having or conceived as of having a single unified overall design, form, or structure.

"Architectural Feature" means the architectural style, design, general arrangement and components of all the surfaces, including but not limited to the kind, texture and color of the building material, and the type and style of all windows, doors, lights, signs and other features appurtenant to such improvement.

"Building" means any structure, part of a structure, extension thereof, or addition thereto having a roof supported by columns, posts, piers, or walls and intended for the shelter, business, housing or enclosing of persons, animals, or property.

"Commission" means the Newark Landmarks and Historic Preservation Commission.

"Construction" means the act of (a) adding an addition to an existing building or structure; (b) the erection of a new principal or accessory building or structure on a lot or property; or (c) alterations.

"Days" means calendar days.

"Demolition" means the dismantling or razing of all or part of any historic site or landscape feature of or any improvement in a historic district.

"Development" means any division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mixing, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

"Historic District" means one or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

"Historic Site" means any real property, building, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archaeological, cultural, scenic or architectural significance.

"Historic Registry" means a listing of all historic sites, buildings, districts or structures within the City of Newark as recorded by the City Clerk.

"Improvement" means any building, structure, work of art or other object installed upon real property or any part of such improvement.

"Minor Application" means an application for approval of actions on a designated historic site, building, structure or object which consists of ordinary maintenance and repair as defined herein.

"Object" means anything constructed, fabricated or created, the use of which does not require permanent or semi-permanent location on or in the ground.

"Ordinary maintenance" means the repair or renewal of deterioration, wear or damage to a structure or improvement in order to return same, as nearly as practicable, to its condition prior to the occurrence of such deterioration, wear or damage with materials and workmanship of the same quality and appearance of the structure or improvement.

"Reasonable Return" means on the average rate of return for properties similar to and in the same area as the improvement parcel under consideration for the purposes of this ordinance for the year proceeding the application as arrived at through certified appraisals, records of sale, and any other research.

"Reconstruction" means the act or process of reproducing by new construction the exact form and details of a vanished building, structure, or object or part thereof, as it appeared at a specific period of time.

"Rehabilitation" means the act or process of returning an improvement to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those orations or features of the improvements which are significant to historical, architectural and cultural values.

"Relocation" means any removal of relocation of a structure or improvement on its site or to another site.

"Responsible Person" means any person or persons having such right to, title to, or interest in any property or improvement so as to be legally entitled, upon obtaining the required permits and approvals from City agencies, to perform with respect to such property or improvement any demolition, construction, reconstruction, alteration, restoration or other work as to which such persons seeks the authorization or approval of the Commission.

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"Restoration" means the act or process of accurately recovering the form and details of an improvement by the removal of later work and/or by the reconstruction of missing earlier work.

"Stabilization" means the act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated building, object, site, structure or landscape feature while maintaining the essential form as it exists at present.

"Structure" means a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land. Structure includes, but is not limited to, buildings, signs, fences, tanks, towers, poles, walkways, driveways, streets and roads.

DESIGNATION OF HISTORIC DISTRICTS AND SITES

27:9-3 Criteria for Designation

a. As stated in the U.S. Department of the Interior's National Register Criteria for Evaluation, promulgated pursuant to 16 U.S.C.A. Sec. 470a, the following criteria shall be used by the Commission for its review for designation of historic sites, buildings and districts: the quality of significance in national, state or municipal history, architecture, archaeology, and culture if present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feelings, and association, and:

1. That are associated with events that have made a significant contribution to the broad patterns of our history; or

2. That are associated with the lives of persons significant in the past; or

3. That embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

4. That has yielded, or may be likely to yield, information important in prehistory or history.

b. Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic building, s properties primarily commemorative in nature, and properties that have achieved significance with the past 50 years shall not be considered eligible for nomination; however, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

1. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or

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2. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

3. A birthplace or grave of a historical figure of outstanding importance if there is not other appropriate building, structure or site directly associated with his or her productive life; or

4. A cemetery which derives its primary significance from graves of persons of transcendent importance, from distinctive design features, or from association with historic events; or

5. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or

6. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or

7. A property achieving significance within the past 50 years if it is of exceptional importance.

27:9-4 Procedures of Designation

a. The Commission may make studies and surveys of sites, buildings and districts in order to determine if same meets the criteria set forth herein for designation as historic sites or historic districts.

b. An application for designation shall be submitted to the Commission for review and recommendation before its submission to the Municipal Council by the Planning Board, Business Administrator or his designee.

c. No historic building, structure, site or district shall be so designated on the zoning map of the City of Newark without first being reviewed by the Commission. The recommendation of the Commission shall be secured in accordance with the provisions herein.

d. All applications shall be submitted in a form provided by the Commission including, but not limited to, the National Register of Historic Places Registration Form.

1. Applications for designation of historic sites and historic districts shall be submitted to the Administrative Officer, who will review the application for completeness.

2. The completed applications shall be presented to the Commission at its first meeting following receipt of the application. After having reviewed all documents relating thereto, the Commission shall determine whether or not the application should be accepted for its review.

3. At the same meeting, the Commission shall set a date for a public hearing (which may be a regularly scheduled meeting of the Commission) on all requests which have been accepted for review.

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4. At least fifteen (15) days prior to the public hearing, public notice by publication in the official newspaper shall be given notifying interested parties that the site or district has been nominated for designation. Said notice shall include information as to where and when the application may be reviewed, as well as information regarding the consequences of the proposed designation and the opportunity to be heard regarding such designation.

5. At the scheduled public hearing, the Commission shall afford a reasonable opportunity for the presentation of facts and the expression of views by responsible persons and/or interested parties, and may take the testimony of witnesses and receive evidence.

6. After full consideration of the evidence brought forth at the hearing, the Commission shall make a recommendation and issue a report recommending designation or non-designation of historic site or historic district to the planning board. Thereafter, the Planning Board shall review the Commission's report and shall issue a final report recommending designation or non-designation of the historic site or district on the zoning map of the City of Newark to the Business Administrator for submission to the Municipal Council.

7. The Planning Board's recommendation shall include the following information:

i. An explanation of the significance or lack of significance, integrity or lack of integrity of the nominated site or district as it relates to the criteria for designation.

ii. The relationship on the nominated site or district to the ongoing efforts by the Commission to identify and nominate all potential areas, sites, structures and building that meet the criteria for designation.

iii. A map showing the location of the nominated site or district and the boundaries of same.

8. A copy of said report shall be available for inspection by any interested party and the Planning Board shall publish in the official newspaper a notice of its decision.

9. If the recommendation of the Planning Board is that the proposed site or district not be designated in the ordinance, any new nomination for the same property or district should be based upon a showing of substantial information.

e. Upon favorable action by the Municipal Council, the nominated historic site or district shall be designated on the Zoning Map of the City of Newark and the Planning Board shall list it in the City's Historic Registry.

27:9-5 Uses of Designated Properties

a. Nothing contained herein shall affect the present legal use of the designated property.

b. Use classifications and bulk restrictions as to all such property shall continue to be governed by the general zoning ordinance of the City of Newark and the procedures established therein.

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c. In no case, however, shall any use be permitted which requires demolition, relocation, or alteration of a designated historic building, structure, site or within a designated district so as to adversely affect its character except upon compliance with the terms of this article.

d. Each designated historic site or district may be marked by an appropriate plaque in such form as the Commission shall promulgate by regulation.

27:9-6 - Removal of Designation

a. Upon recommendation of the Commission based upon new and compelling evidence and negative evaluation according to the same criteria and following the same procedures set forth herein for designation, a determination may be made by the Commission to remove designation of a historic site or district.

b. Such a determination must receive five (5) favorable votes, i.e., the majority of the Commission membership.

c. A historic site or district shall not be removed from the historic registry of the City of Newark without consideration of the recommendation by the Commission and must be effected by ordinance adopted by simple majority of the Municipal Council.

PERMITS WHEN REQUIRED

27:9-7 Actions Requiring Review

a. No building permit shall be issued or amended nor shall any construction, alteration, ordinary maintenance or repairs, or repairs or demolition be started on a designated historic building, structure or site, or within a designated historic district, prior to review by the Commission.

b. A permit issued by the Administrative Officer shall be required for any of the following actions to proceed regarding a designated historic site or for any improvement within a designated historic district:

1. Rehabilitation, restoration, reconstruction, repair or alteration or change to any part of the exterior of a building, structure or site, including repainting and residing, if visible from a public street.

2. Additions to a building, structure or site, or within a district if visible from a public street;

3. Relocation of a historic site or within a district;

4. Demolition of a historic site or within a district;

5. New construction on a historic site or within a district.

6. Change in use of a historic site or within a district if such change effects a change in the exterior appearance of the site or improvement.

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1 c. All applications for permits pertaining to
2 designated historic sites or improvements in designated historic
3 districts shall be referred to the Commission for a written
4 report and decision on the application of the provisions of this
5 ordinance thereto.
6

7 27:9-8 - Actions Not Requiring Review
8

- 9 a. Changes to the interior of structures;
10
11 b. Changes not visible to the public from a public
12 street.
13

14 27:9-9 - Emergency Repairs
15

16 a. In the event an Act of God or any other unexpected
17 event shall cause the responsible person the need for immediate
18 issuance of a permit to commence to stabilize, secure, repair or
19 protect a designated historic site or any improvement in a
20 designated historic district damaged from such event, and the
21 Construction Code Official certifies the immediate necessity for
22 such issuance, an approval of a permit may be issued in
23 accordance herewith.
24

25 b. Upon notice to the full Commission by telephone,
26 personal contact or other appropriate means of communication, at
27 least three (3) members of the Commission shall convene as soon
28 as possible and such convening members shall proceed to review
29 the current conditions for which the emergency powers of this
30 ordinance have been invoked. Subsequent to review, an approval
31 may be issued upon a majority vote of the members convened.
32 This approval will only apply to work which is deemed necessary
33 for stabilization, securing, repair or protection of the
34 historic site or improvement in a historic district.
35

36 c. All other work subsequent to this must be
37 submitted for review by the Commission under the application
38 procedures found in Title 27:9-11, et seq., of this Ordinance.
39

40 27:9-10 - Informal Review
41

42 If work which would require a permit is to take place
43 on a building, structure or site, or within a district, which
44 has already undergone a Commission hearing and has been
45 recommended for designation as a historic site or district, but
46 has yet to be reviewed by Municipal Council, the applicant shall
47 follow the same procedure herein set forth for property already
48 designated at which point the Commission may make
49 recommendations as to the appropriateness of the work and its
50 impact on this historic fabric of the site or district.
51

52 27:9-11 - Application Procedures
53

54 a. Persons seeking to undertake actions requiring
55 review as per the provisions of this Ordinance must submit a
56 completed application to the Commission.
57

58 b. A complete application shall consist of:
59

60 1. A completed application form.
61

62 2. For all structures and additions thereto,
63 architectural drawings or rendering of details of the exterior
64 of the structure, including but not limited to: cornices,
65 brackets, windows/fenestration, brickwork, mortar, window trim
66 and moldings, heads and sills, porches, balusters, porch frieze,
67 projecting elements, doors and bays shall be included with the
68 application if available.
69
70
71
72
73

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3. If such drawings are not available, the Commission shall have the right to require whatever documentation of the work to be performed as is necessary to make an informed decision.

4. For all structures, a detailed narrative description of the proposed scope of work (construction, alterations, repair, restoration, etc.).

5. Current photographs of the improvement.

6. Specification sheets listing all materials to be used including catalogue lot sheets, sample paint chips, etc.

7. Application fee of \$

c. The historic Preservation Officer shall forward the complete application to the Commission for its report, except in those instances described herein where the Chairman of the Commission may issue the approval.

27:9-12 - Commission Review of Development and Zoning Applications

a. The Planning Board and Board of Adjustment shall make available to the Commission every application for development submitted to either board for development in historic zoning districts or on historic sites designated on the zoning or official map or identified in any component element of the master plan.

b. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner.

c. The Commission may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.

d. If a recommendation of the Commission is rejected, the Planning Board or Board of Adjustment, as the case may be, shall include the reasons for rejecting the recommendation in the findings of its decision on the application.

27:9-13 - Commission Review of Applications For Permits

a. At the request of any person seeking to undertake actions requiring review as per the provisions of this Ordinance, the Commission shall schedule a hearing on his or her application. The applicant shall not be required to appear or to be represented at the meeting in which the application is being considered.

b. Completed applications for approval of a permit shall be submitted to the Administrative Officer a minimum of fourteen (14) days prior to a Commission's regularly scheduled meeting.

c. Minor applications for ordinary maintenance, the cost of which does not exceed \$500.00 may be reviewed by the Chairperson of the Commission who may act in place of the full Commission for the purposes of this ordinance. In making such a determination the Chairperson shall use the same standards for review of permits and applications described herein.

d. The Commission shall decide all completed applications for approval of a permit within forty-five (45) days after receipt thereof or after referral from the Administrative Officer, whichever is sooner.

e. If the Commission should fail to act within forty-five (45) days, the permit shall be deemed approved. Nothing herein shall prohibit an extension of time by mutual agreement between the applicant and the Commission.

f. The Commission may advise the Administrative Office or the applicant, as the case may be, and make recommendations with regard to the appropriateness of the proposed action. These recommendations may become part of the conditions for approval of an application or the basis for the rejection of an application.

1. If an application is approved with or without the imposition of conditions, a permit shall be issued promptly by the Administrative Officer.

2. If the Commission disapproves an application, the Administrative Officer shall not issue the permit and the Commission shall state its reasons in writing to the applicant within fourteen (14) days of such decision.

g. A permit shall be valid for a period of one (1) year from the date of issue unless reasonable extensions are granted by the Commission. Requests for extensions shall be made by written request and shall rest in the sound discretion of the Commission.

STANDARDS FOR REVIEW

27:9-14 General Standards

a. The following standards, The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, promulgated pursuant to 16 U.S.C.A. Sec. 470a, shall guide the Commission's and Planning Board's decision/making concerning all applications and approvals described herein.

1. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

2. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the designated historic property and its environment would be unimpaired.

3. Construction of historic designs that were never built shall not be undertaken.

4. New additions, alterations or new construction in a historic landscape shall be visually differentiated from the old and shall be compatible with the historic character of the landscape.

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5. Replacement of missing historic plant material or vegetation features shall be substantiated by documentary or physical evidence. The replacement plant material or features shall match the historic appearance, function and where possible, species or variety.

6. A property shall be used for its historic purpose, or shall be placed in a new use that requires minimal change to the defining characteristics of the property and its environment.

7. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

8. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or historic features from other properties shall be avoided.

9. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

10. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

11. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary or physical evidence.

12. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

13. Significant archeological resources shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

27:9-15 - Standards for Protection

a. Before applying protective measures, which are generally of a temporary nature and imply future historic preservation work, an analysis of the actual or anticipated threats to the property shall be made.

b. Protection shall safeguard the physical condition or environment of a property or archaeological site from further deterioration or damage caused by weather or other natural, animal or human intrusions.

c. If any historic material or architectural features are removed, they shall be properly recorded, and, if possible, stored for future study or reuse.

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27:9-16 Standards for stabilization

a. Stabilization shall reestablish the structural stability of a property through the reinforcement of load bearing members or by arresting material deterioration leading to structural failure. Stabilization shall also reestablish weather resistant conditions for a property.

b. Stabilization shall be accomplished in such a manner that it detracts as little as possible from the property's appearance. When reinforcement is required to reestablish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the aesthetic and historical quality of the property, except where concealment would result in the alteration or destruction of historically significant material or spaces.

27:9-17 Standards for New Construction

a. In considering whether to approve or disapprove an application for new construction on a designated historic site or in a designated historic district, the Commission shall be guided by standards of the Secretary of the Interior and the following visual compatibility standards.

b. New construction need not replicate historic older buildings or structures, but may reflect contemporary design standards so long as the design and construction is compatible with surrounding historic structures. Building height, width, mass and proportion affect the degree of compatibility between the old and the new.

1. Site and Setting: A developer intending to utilize historic resource as a part of a development must consider the context of the resource's original site by honoring the original historic intention of said resource and integrating it respectfully into the new development.

2. Building Height: Height should be visually compatible with adjacent buildings. The apparent physical size, scale and height should relate to existing resources.

3. Openings on Frontal Facades: The width and height of windows, doors, and entries must harmonize in scale and proportion with the width and height of windows, doors, and entries of buildings and structures of historic significance in the surrounding environment.

4. Relationship of Unbroken Planes to Void (i.e. Punctured Planes) in Front Facades: The relationship of unbroken planes (i.e. walls) to voids (i.e. windows and doors) on the facade of a building or structure should be aesthetically harmonious with that of buildings and structures of historic significance in the surrounding environment.

5. Relationship of Vacant Land to Buildings/Structures: The relationship of a building or structure to the vacant land between and adjoining buildings or structures should not violate the existing paradigmatic spatial relationship of historically significant structures to the vacant land between said structural projects can be varied in form by using setbacks to create open spaces and landscaping when desirable to provide harmonious visual transitions between new construction and the adjacent historic properties.

6. Relationship of Exterior Projections to the Street: The relationship of exterior projections to the street in new construction should be aesthetically harmonious with the

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relationship of exterior projections to the street in the surrounding existing buildings of historic significance.

7. Relationship of Major Exterior Building Materials: The major exterior building materials on the facade of a building or on a structure should reflect the predominant major building materials existent on the facades of historically significant buildings and on structures in the surrounding environment.

8. Roof Forms: The roof form and slope of a building or structure is a major element in the visual image of the building. Therefore designers must take care to honor paradigmatically in new construction the existing historic roof forms and slopes so as not to violate the aesthetic harmony of the whole.

9. Continuity in Visual Imagery of Appurtenances: Appurtenances of a building or structure such as walls, fences and landscaping shall honor the relationship of appurtenances to buildings of historic significance in the surrounding environment.

10. Scale of Buildings: Scale of buildings and structures shall be in scale with the buildings and structures of historic significance.

11. Signage: Signs which are out of keeping with the character of the environment in question should not be used. Excessive size and inappropriate placement on buildings results in visual clutter. A sign should be designed to relate harmoniously to exterior building materials and colors. A sign should express a simple clear message with wording kept to a minimum.

12. Site Planning: The site planning of landscaping, parking facilities, utility and service areas, walkways, and appurtenances must reflect the site planning of landscaping, parking facilities, utility and service areas, walkways and landscape feature reticulate to buildings or structures of historic significance.

27:9-18 Standards for Relocation

a. A permit to relocate a designated historic site or an improvement in a designated historic district, must receive five (5) favorable votes, i.e., the majority of the Commission membership.

b. In considering whether to approve or disapprove an application for a permit for the relocation of a designated historic site or improvement in a designated historic district, the Commission shall be guided by the following considerations:

1. Whether the historic character and aesthetic interest the building, structure or object contributes to its present setting;

2. Whether there are definite plans for the area to be vacated and what the effect of those plans on the character of the surrounding area will be;

3. Whether the building, structure, or object can be moved without significant damage to its physical integrity; and

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4. Whether the proposed relocation area is compatible with the historical and architectural character of the building, object or structure.

27:9-19 Standards for Demolition

a. A permit to demolish a designated historic site or an improvement in a designated historic district must receive five (5) favorable votes, i.e., the majority of the Commission membership.

b. In considering whether to approve or disapprove an application for a permit to demolish a designated historic site or an improvement in a designated historic district, the Commission shall be guided by the following considerations:

1. Its historic architectural and aesthetic significance;

2. Its use;

3. Its importance to the City and the extent to which its historic or architectural value is such that its removal would be detrimental to the public interest;

4. The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty;

5. The probable impact of its removal upon the ambience of the historic district;

6. The structural soundness and integrity of the building so as to comply with the requirements of the State Uniform Code;

7. The effect on the remaining portion of building, structure, site, object or landscape feature in cases of partial demolition.

c. In the event that a structure is unsafe or unsound so as to pose a danger to health or safety, the power and authority of the City of Newark to demolish the structure, as otherwise provided by law, shall not be impaired or altered in anyway by the provisions of this ordinance. The city shall be exempt from making an application to the Commission but shall notify the Commission prior to the demolition.

d. If an application to demolish is denied, the applicant shall follow the appeal process detailed herein for denial of a permit.

27:9-20 Local Guidelines

The Commission shall utilize locally generated guidelines or historic preservation aids in addition to the Secretary of the Interior's Standards.

27:9-21 Economic Hardship

In connection with the approval of a permit or application, the applicant may seek to establish economic hardship as a basis for relief from the standards described herein. The Commission shall review all the evidence and information submitted by the applicant, as well as perform any research necessary to make an informed decision, as part of the review process. The Commission shall consider the ability of the property to earn a reasonable rate of return, the financial condition of the applicant, and the effect of the work to be performed on the economic value of the property. The Commission may solicit expert testimony or require that the applicant make submissions concerning any or all of the following information before it makes a determination on the application:

a. Estimate of the cost of the proposed construction, alteration, demolition, or removal of an estimate of any additional cost that would be incurred to comply with the recommendations of the Commission for changes necessary for the issuance of a permit.

b. Estimated market value of the property in its current condition: after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the Commission; and in the case of a proposed demolition, after renovation of the existing property for continued use.

c. Any other information, including the income tax bracket of the owner, applicant or principal investor in the property considered necessary by the Commission to a determination as to whether the property does yield or may yield a reasonable return to the owners.

d. In the case of proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.

27:9-22 Effect of Project Approval or Denial; Appeals

a. If a permit is approved, then the applicant may proceed to perform the work approved in said permit in compliance with the conditions attached.

b. If a permit is denied, the applicant is precluded from undertaking the activity applied for.

c. An applicant dissatisfied with the action of the Commission relating to the issuance or denial of a permit shall have the right to appeal to the Board of Adjustment pursuant to N.J.S.A. 40:55D-70a within twenty (20) days after receipt of notification of such action.

d. The applicant shall be advised by the Clerk of the Board of Adjustment of the time and place of the hearing at which the appeal will be considered, and shall have all rights defined under N.J.S.A. 40:55D-70a.

e. If the Board of Adjustment affirms the Commission's denial, the applicant may seek legal remedies as afforded by law.

1 f. If, in the case of an appeal, the Board of
2 Adjustment determines there is an error in any order,
3 requirement, decision or refusal made by the administrative
4 officer pursuant to a report submitted by the Commission, the
5 Board of Adjustment shall include the reasons for its
6 determination in the findings of its decision thereon.
7

8
9 27:9-23 Enforcement

10 a. If any person shall undertake any activity vis-a-
11 vis a historic building, structure or site, or within a historic
12 district, without first having obtained a permit to do so, such
13 person shall be deemed to be in violation of this Ordinance.
14

15 b. Upon learning of the violation, the Administrative
16 Officer shall serve upon the owner or responsible party of the
17 lot whereon the violation is occurring a notice describing the
18 violation in detail and giving the owner fourteen (14) business
19 days to abate the violation by restoring the historic site or
20 improvement to its status quo ante. If the owner cannot be
21 personally served within the municipality said notice shall be
22 deemed to have been officially served, if, a copy has been
23 posted on site and a copy sent by certified mail, return receipt
24 requested, to the owner at his last known address as it appears
25 on the municipal tax rolls.
26

27 c. In the event that the violation is not abated
28 within fourteen (14) days of service or posting on site,
29 whichever is earlier, the Administrative Officer shall cause to
30 be issued a summons and complaint, returnable in the municipal
31 court, charging violation of this ordinance.
32

33 d. Any person violating any of the provisions of this
34 Historic Preservation Ordinance of the City of Newark shall,
35 upon conviction thereof, be subject to the penalties set forth
36 for violation of the zoning ordinance.
37

38 e. A separate offense shall be deemed committed on
39 each day during or on which a violation occurs or continues.
40

41 f. Fines not paid within the time period set by law
42 shall convert to a tax lien placed against the property and
43 shall be recorded with the City of Newark Property Tax Office
44 and the Essex County Register of Deeds and Mortgages.
45

46 g. The Administrative Officer shall inspect work
47 approved by a permit and report to the Commission the results of
48 such inspections.
49

50
51 27:9-24 Preventive Maintenance

52 a. The structural integrity of all historic sites and
53 improvements in historic districts shall be preserved against
54 decay and deterioration by being kept free from the following
55 structural defects by the responsible person:
56

57 1. Deteriorated or inadequate foundation.
58

59 2. Defective or deteriorated floor supports or
60 any structural members of insufficient size to carry imposed
61 loads with safety.
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63 3. Members of walls, partitions or vertical
64 supports that split, lean, list or buckle due to defective
65 material or deterioration.
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3 4. Structural members of ceilings and roofs, or
4 other horizontal structural members, which sag, split or buckle
5 due to defective materials or deterioration or are of
6 insufficient size to carry imposed loads with safety.

7
8 5. Fireplaces or chimneys which list, bulge or
9 settle due to defective material or deterioration or are of
10 insufficient strength to carry imposed loads with safety.

11
12 6. Lack of weather protection.

13
14 b. The responsible person shall repair said
15 improvement within a specified period of receipt of a written
16 order to correct defects or repairs to any improvement as
17 provided in Section (a) above, so that such improvement shall be
18 preserved and protected in accordance with the purposes of this
19 article.

20
21 c. Any such order shall be in writing, state the
22 actions to be taken with reasonable particularity and shall
23 specify dates for compliance which may be extended for a
24 reasonable period of time upon request to allow the responsible
25 person to secure financing, labor and/or materials. Any such
26 order may be appealed to the Board of Adjustment within twenty
27 (20) days of receipt of same.

28
29 d. That taking of an appeal or the commencement of
30 any court action hereunder shall not operate to stay any order
31 requiring structures to be secured or requiring temporary
32 support unless the Board of Adjustment or a court expressly
33 stays such order

34
35 27:9-25 - Municipal Responsibility

36
37 a. It is recognized that the intent and purposes of
38 this article would not be fully served if the City were to
39 control the actions of others but fail to apply similar
40 constraints to itself. Accordingly, a permit shall be required
41 before final approval of any city actions on public as well as
42 private lands, streets, easements and rights-of-way for actions
43 affecting designated historic sites, buildings or districts.

44
45 b. This requirement shall be deemed to include any
46 action by any party which requires the approval of concurrence
47 of the City or any City agency and which is not otherwise
48 covered by the provisions of the article.

49
50 27:9-26 - Rules of Interpretation

51
52 a. This Article shall be liberally construed to
53 affect the purposes set forth herein. In the event that this
54 Ordinance conflicts with State law, State law shall take
55 precedence.

56
57 b. In the event that any portion of this Article is
58 found to be invalid for any reason by any court of competent
59 jurisdiction, such judgment shall be limited in its effect only
60 to the portion of the Article actually adjudged invalid and
61 shall not be deemed to affect the operation of any other portion
62 hereof.

63
64 27:9-27 - General

65
66 a. No duties or powers of the Commission shall
67 supersede or infringe on the powers of other City boards.
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b. All ordinances and all provision thereof inconsistent or conflicting with the provisions of this Article are hereby repealed to the extent of such conflict of inconsistency.

27:9-8 - Injunctive Relief

In the event that any action which would permanently change adversely the historic building, structure, site or district, such as demolition or removal, is about to occur without an approval having been issued, the Administrative Officer shall apply to the Municipal Council for such injunctive relief as is necessary to prevent the destruction.

Section 2. Any ordinance or part thereof inconsistent herewith be and is hereby repealed. Nothing contained herein shall be construed to conflict with the provisions set forth in N.J.S.A. 40:55D-107 et seq.

Section 3. This ordinance shall take effect upon final passage and publication as provided by law.

STATEMENT OF PURPOSE

This Ordinance Amends Title 2, Zoning, of the Revised Ordinances of the City of Newark, 1966, as amended and supplemented by adding a new Chapter for creating and establishing historic districts and rules and regulations therefore.

(histor.2)

CERTIFIED TO BY ME THIS
10TH DAY OF AUGUST, 1994

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE								RECORD OF COUNCIL VOTE FOR RECONSIDERATION							
Council member	Ave	Nay	NV	AB	Council member	Ave	Nay	NV	AB	Council member	Ave	Nay	NV	AB	
BRANCH	✓				QUINTANA	✓				BRANCH					
CARRINO	✓				RICE	✓				CARRINO					
CRUMP	✓				TUCKER	✓				CRUMP					
HARRIS	✓				BRADLEY,	✓				HARRIS					
MARTINEZ	✓				President					MARTINEZ					

✓ — Indicates Vote AB — Absent NV — Not Voting

Adopted on first reading at a meeting of the Council of the City of Newark, N.J., on JUL 06 1994

Adopted on second and final reading after hearing on AUG 03 1994

Approved

Rejected By

Ronald Bradley

Council President

Mayor

Robert P. Morasco

City Clerk

This Ordinance when adopted must remain in the custody of the City Clerk. Certified copies are available.